

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

**JOHN MICHAEL LEBLANC,**

*Plaintiff,*

**v.**

**Case No. \_\_\_\_\_**

**BANK OF AMERICA, N.A.; and BAC  
HOME LOANS SERVICING, LP fka  
COUNTRYWIDE HOME LOANS  
SERVICING, LP, CORP.; RUBIN LUBLIN  
TN, PLLC**

*Defendants.*

**NOTICE OF REMOVAL**

Defendant Bank of America, N.A.<sup>1</sup>, as successor by merger to BAC Home Loans Servicing, LP, formerly known as Countrywide Home Loans Servicing, LP, (“Defendant”), by and through its undersigned attorneys and pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, files this notice of removal (“Notice”) from the Chancery Court for the 30th Judicial District, Shelby County, Memphis, Tennessee, to the United States District Court for the Western District of Tennessee, Western Division. Removal is based on federal question jurisdiction since one of Plaintiff John Michael LeBlanc’s (“Plaintiff”) claims for relief arises under federal law. In support of this Notice, Defendant states as follows:

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<sup>1</sup> On July 1, 2011, BAC Home Loans Servicing, LP merged with and into Bank of America, N.A. As such, Bank of America, N.A. responds as successor by merger to BAC Home Loans Servicing, LP, formerly known as Countrywide Home Loans Servicing, LP.

## **I. FACTS AND PROCEEDINGS**

1. On or about November 26, 2012, Plaintiff filed his Complaint in the Chancery Court of Shelby County, Tennessee. The state court case is styled: *John Michael LeBlanc v. Bank of America, N.A. et al.*, Case No. CH-12-1810-1 (the “State Court Action”).

2. The Complaint is based on alleged events related to a parcel of residential property located at 3786 Old Brownsville Road, Memphis, Shelby County, Tennessee 38135 (the “Property”). The Complaint alleges causes of action for a violation of Regulation Z of the Truth-in-Lending Act (“TILA”), a violation of the Tennessee Consumer Protection Act, breach of contract, promissory estoppel, and negligent misrepresentation against Defendant. (*See generally* Compl.).

## **II. THIS NOTICE IS TIMELY FILED**

3. Defendant was served with the Complaint and Summons on December 3, 2012. This Notice is, therefore, timely because it is filed within thirty days of receipt of the summons by one of the defendants. 28 U.S.C. § 1446(b)(1), (2)(B) (stating that “[e]ach defendant shall have 30 days after receipt by or service on that defendant of the initial pleading or summons described in paragraph (1) to file the notice of removal”).

## **III. REMOVAL PROCEDURES**

4. Removal of this case is proper under 28 U.S.C. § 1441(a), which provides in pertinent part that, “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

Venue is appropriate in this Court pursuant to 28 U.S.C. § 1441(a). Defendant seeks to remove this case to the United States District Court for the Western District of Tennessee, Western Division. The Chancery Court of Shelby County, Tennessee, is located within this District and cases arising from Shelby County are properly assigned to this Court. *See* 28 U.S.C. § 123(c)(2).

Co-Defendant Rubin Lublin TN, PLLC consents to this removal.

In compliance with 28 U.S.C. § 1446(a), a copy of all “process, pleadings, and orders” received by Defendants are attached as **Exhibit A**.

In accordance with 28 U.S.C. § 1446(d), a true and correct copy of this Notice (without exhibits) is being filed concurrently with the Clerk of the Chancery Court of Shelby County, Tennessee, and served upon all parties of record. A true and correct copy of Defendant’s notice to the state court is attached hereto as **Exhibit B**.

#### **IV. THIS COURT HAS FEDERAL QUESTION JURISDICTION**

8. This Court has original jurisdiction pursuant to 28 U.S.C. § 1331 as it is apparent on the face of Plaintiff’s Complaint that this action arises under and expressly presents a question of federal law. (*See* Compl. ¶¶ 35-36). Specifically, Plaintiff states that Defendant allegedly violated federal law by failing to notify Plaintiff of the change of ownership of her mortgage loan. (Compl. ¶ 36). Plaintiff pleads that this allegation amounts to a violation of Regulation Z of TILA, which is a federal statute. *Id.*; 15 U.S.C. § 1631, *et seq.* Accordingly, it is clear that the Complaint expressly presents a question of federal law. 28 U.S.C. § 1331.

9. To the extent the Complaint alleges statutory, state common law or other nonfederal claims, this Court has supplemental jurisdiction over any such claims under 28 U.S.C. § 1367 because those claims arise out of the same operative facts as Plaintiff’s claim under

federal law and “form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1367(a).

10. Because one of Plaintiff’s claims for relief arises under the laws of the United States, removal of this entire cause of action is appropriate under 28 U.S.C. § 1441(a)-(c).

## **V. CONCLUSION**

WHEREFORE, Defendant respectfully requests the above-captioned action now pending in the Chancery Court for the 30th Judicial District, Shelby County, Memphis, Tennessee, be removed to the United States District Court for the Western District of Tennessee, Western Division, and that said United States District Court assume jurisdiction of this action and enter such other and further orders as may be necessary to accomplish the requested removal and promote the ends of justice.

This the 2nd day of January, 2013.

Respectfully submitted,

/s/ Paul Allen England

Paul Allen England (BPR No. 26288)

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 2, 2013, a copy of the foregoing was filed electronically with the Clerk's office by using the CM/ECF system and served electronically and/or via first-class U.S. mail, postage prepaid, upon all counsel as indicated below. Parties may also access this filing through the Court's ECF system.

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